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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,823	01/03/2002	Jean-Louis Pellegatta	Q65499	4464

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EXAMINER
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CHIN, PAUL T

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/913,823		PELLEGATTA, JEAN-LOUIS	
	<b>Examiner</b>		<b>Art Unit</b>	
	PAUL T. CHIN		3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 January 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Specification*

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

**The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.**

3. The disclosure is objected to because of the following informalities: it appears that on page 5, line 1, the reference number "11" should be changed to -- 12 -- referring to "preform", and the subtitles such as "Background of The Invention" "Summary of The Invention" "Brief Descriptions of the Drawings" and "Detailed Description" should be inserted at the appropriate paragraph. Appropriate correction is required.

### *Claim Objections*

4. Claim 8 is objected to because of the following informalities: the word -- said -- should be inserted before the words "ejection means" (claim 8, line 6) since the limitation has been already recited in lines 3 and 4. Appropriate correction is required.

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5. Claims 7-11 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claims. See MPEP § 608.01(n). Accordingly, the claims 7-11 have not been further treated on the merits.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 7-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is not antecedent basis for “the lower end of the claws” (claim 7, line 2), “the ejection means” (claim 8, lines 3 and 4), “the ejection finger” (claim 8, line 7), or “the upper plate of the gripping bell” (claim 10, line 3).

Moreover, claim 11 is vague and indefinite as to whether applicant is claiming “temperature oven” or “a carrying device”.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-3,8, and 9, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Lawn et al. (5,769,476).

Lawn et al. (5,769,476) discloses a preform carrying device, comprising a gripping device (100,130) having gripping claws (112,112) (see Figs. 2 and 3) that substantially enclose an outer surface of a tubular neck of the perform (B); an inner core (70) penetrating axially inside the neck of the perform and having a lower transverse surface (see Figs. 2 and 3).

Re claim 2, Lawn et al.'s carrying device (5,769,476) also shows that the diameter of the core is substantially equal to or less than the inside diameter of the neck of the perform.

Re claim 3, Lawn et al.'s carrying device (5,769,476) further shows that the core extended upwardly (see Fig. 2) and the functional limitation (i.e. to allow the heat absorbed by the core to be dissipated) is not patentably significant.

Re claim 8, Lawn et al.'s carrying device (5,769,476) also shows an ejection means arranged above the gripping device having at least one finger (54,68,80) that extends axially downwardly and provided with means (86) for relative displacement of the gripping device.

Re claim 9, Lawn et al.'s carrying device (5,769,476) shows that the gripping device is mounted to be axially movable on the carrying device and the ejection means attached, but rotatably movable with respect to the carrying device (Col 2, lines 20-63, and Col 4, lines 17-63).

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10. Claims 1-5,8,9, and 11, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by McDonald (4,086,999).

McDonald (4,086,999) discloses a preform carrying device, comprising a gripping device (25) having gripping claws (43,43) that substantially enclose an outer surface of a tubular neck of the perform (2); an inner core (37) penetrating axially inside the neck of the perform and having a lower transverse surface (see Figs. 4 and 5).

Re claim 2, McDonald's carrying device (4,086,999) also shows that the diameter of the core is substantially equal to or less than the inside diameter of the neck of the perform (see Figs. 4 and 5).

Re claim 3, McDonald's carrying device (4,086,999) further shows that the core (37) extended upwardly (see Fig. 2) and the functional limitation (i.e. to allow the heat absorbed by the core to be dissipated) is not patentably significant.

Re claim 4, McDonald's carrying device (4,086,999) shows a bell shaped or a cup shaped gripping device (25) having an open at the bottom (see Figs. 4 and 5) inside which the neck is axially engaged and the bell has a series of radial slots (30) angularly distributed (Col 4, lines 35-54).

Re claim 5, McDonald's carrying device (4,086,999) further shows a circular upper transverse plate (28) from which a tubular skirt (29) extends axially downwardly, the inside diameter of the skirt being smaller than the outside diameter of the bottle neck.

Re claim 8, McDonald's carrying device (4,086,999) also shows an ejection means arranged above the gripping device having at least one finger (44) that extends axially

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downwardly and provided with means for relative displacement of the gripping device (see Figs. 4 and 5)

Re claim 9, McDonald's carrying device (4,086,999) shows that the gripping device is mounted to be axially movable on the carrying device and the ejection means attached, but rotatably movable with respect to the carrying device (from Col 4, line 35, to Col 5, line 55).

Re claim 11, McDonald's carrying device (4,086,999) shows a temperature conditioned oven (9) (Col 4, lines 45-56) for a plastic blow forming facility having a carrying device (see Figs. 4 and 5).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald's carrying device (4,086,999).

McDonald's carrying device (4,086,999), as presented in section 10 above, does not clearly show that the bell (25) is made of plastic. However, it would have been an obvious to those skill in the art at the time the invention was made to provide plastic material (instead of stainless steel, or aluminum) on the bell of McDonald's carrying device (4,086,999) in order to employ the flexibility when molding to grip the plastic perform.

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*Allowable Subject Matter*

13. Claims 7 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Conclusion*

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (703) 305-1524. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (703) 308-3248. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1113.



PAUL T. CHIN  
Examiner  
Art Unit 3652

PTC  
September 23, 2003